

GEORGIA DEPARTMENT OF HUMAN RESOURCES
Human Resource/Personnel Policy #1704

AMERICANS WITH DISABILITIES ACT

EFFECTIVE DATE: September 1, 2005

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REFERENCES: The Americans With Disabilities Act of 1990, Title I (P.L. 101-336)
Civil Rights Act of 1964, Title VII (42 USC 2000e), as amended by the
Civil Rights Act of 1991
Vocational Rehabilitation Act of 1973, Section 504 (29 USC 206[D])
Fair Employment Practices Act, Chapter 45-19, as amended

The Department of Human Resources and its employees are subject to the provisions of Title I of the Americans With Disabilities Act (ADA) prohibiting unlawful discrimination against qualified individuals with disabilities. Specifically, Title I of the ADA prohibits discrimination in job application procedures, hiring, advancement, discharge, compensation, job training, and other terms, conditions, and privileges of employment.

(Section A)

**COMPLIANCE
WITH ADA**

1. It is the policy of the Department of Human Resources to administer its human resource/personnel management program in compliance with the provisions of Title I of the ADA.
2. The Office of Human Resource Management and Development (OHRMD) is responsible for overall direction, coordination, and technical assistance regarding matters relating to ADA Title I compliance.

(Section B)

**REASONABLE
ACCOMMODA-
TION**

1. Otherwise qualified individuals may request reasonable accommodation from the Department due to their disabilities. In accordance with the ADA, all requests will be thoroughly reviewed to determine if they can be approved or if they represent an undue hardship on the Department.
2. All DHR organizational units should have a process established for approving or denying reasonable accommodation requests.

(Section C)

**ACCOMMODA-
TION REQUESTS**

1. Employees are to submit requests for reasonable accommodation in writing to their immediate supervisors or other designated officials specifying the accommodation requested and its estimated duration.
2. Requests for reasonable accommodation must include documentation from the attending health care provider which identifies the current disability being treated, any work-related limitations or restrictions, and their estimated or actual duration.

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- 2.1 Employees may grant permission for authorized DHR officials to communicate directly with the attending health care provider concerning the requested accommodation. Permission is granted when an employee voluntarily signs the *AUTHORIZATION FOR RELEASE OF INFORMATION* Form.

NOTE: The *AUTHORIZATION FOR RELEASE OF INFORMATION* Form is available at:

<http://www2.state.ga.us/departments/dhr/ohrmd/Forms/docs/medrelease.pdf>

3. Supervisors or other designated officials are to meet with employees as soon as possible to initially discuss reasonable accommodation requests.
 - 3.1 Supervisors or other designated officials are to confirm discussions in writing within five (5) work days.
 - 3.2 Any written materials resulting from discussions that identify employees' disabilities or medical conditions must be handled as directed in the *DHR PROCEDURE FOR HANDLING MEDICAL INFORMATION IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT*. (See Attachment #1)
 - 3.3 During initial discussions, supervisors or other designated officials will not commit to approving reasonable accommodation requests except as provided by DHR policy, procedure, or guideline.

(Section D) **REVIEW**

1. Requests for reasonable accommodation will be reviewed based on a careful assessment of the following:
 - 1.1 organizational needs,
 - 1.2 available resources,
 - 1.3 the impact of disabilities on essential functions of employees' positions, and
 - 1.4 relevant medical information concerning disabilities to be accommodated.

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2. If disabilities or medical conditions are apparent, employees may be placed in modified work environments, given modified duties, or be temporarily reassigned during the review period, if such accommodations are possible without undue hardship. (See **Section E** for provisions governing modified assignments.)
3. Authorized officials should make determinations within fifteen (15) work days of receiving requests for reasonable accommodation.
4. Reasonable accommodation requests that are denied on the basis of undue hardship must include detailed documentation of accommodations considered and reasons for denial.
5. Written approval from appropriate authorized officials must be received prior to implementing reasonable accommodations resulting in a change in employment status, a change in the terms and conditions of employment, or a change in the essential functions of a position. Examples include, but are not limited to:
 - 5.1 temporary or permanent reassignments,
 - 5.2 significant modification of work schedules or environments, or
 - 5.3 changes in work duties and responsibilities.

(Section E)

TEMPORARY AND MODIFIED DUTY ASSIGNMENTS

1. Temporary and modified duty assignments may be determined appropriate to reasonably accommodate disabilities.
 - 1.1 Temporary and modified duty assignments can be made for up to sixty (60) calendar days. Management has the option of extending assignments for up to ten (10) calendar days beyond the 60-calendar day limit if the additional time is needed to make work-related arrangements for employees.
 - 1.2 Prior to returning to regular duty, the employee must provide a medical statement from the attending health care provider releasing the employee to perform the essential functions of the position, with or without reasonable accommodation.
2. If an employee is unable to return to work and perform the essential functions of the position, with or without reasonable accommodation, at the end of a temporary and modified duty assignment, family and medical leave or other leave with or without pay may be requested and considered.

(Section F)

**PERMANENT
REASSIGN-
MENTS**

Permanent reassignments may be determined appropriate to reasonably accommodate disabilities. Employees may be permanently reassigned to positions within the same job, to positions in a different job on the same paygrade, or to positions in a different job on a lower paygrade.

1. **Within Current Job** - Employees may be permanently reassigned to vacant or soon to be vacant positions within the same job. Positions available for reassignments are not to be limited to positions within the same work area, but can include all positions at the work location in that job. (For example, a Health Services Technician could be moved to a position in any unit of the hospital.)
2. **Different Job/Same Paygrade** - Permanent reassignment to vacant or soon to be vacant positions in a different job on the same paygrade are to be handled as follows:
 - 2.1 When a position vacancy has not been advertised, an employee may be permanently reassigned following a careful review of the employee's qualifications for performing the essential functions of the position, work performance, and organizational needs. Such reassignment must have prior written approval from an authorized official.
 - 2.2 When a position vacancy has been advertised, it is generally not permissible to interrupt the selection process and non-competitively reassign an employee to the position as reasonable accommodation. Situations in which non-competitive reassignment is being considered must first be discussed with the OHRMD – Employee Relations Section.
3. **Voluntary Demotion** - Permanent reassignment to a lower job as reasonable accommodation will be handled in accordance with the provisions of DHR Human Resource/Personnel Policy #1102 regarding voluntary demotions.

(Section G)

**SEPARATION
FROM
EMPLOYMENT**

1. Employees may be separated from employment based on inability to perform assigned duties when:
 - 1.1 There is no reasonable accommodation that can be made in the current position without incurring an undue hardship on the organization; **and,**

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- 1.2 There is no other position in the same job (vacant or soon to be vacant) for which the employee qualifies, and into which the employee can be reassigned or is willing to accept reassignment; **and,**
 - 1.3 There is no position in a different job on the same paygrade (vacant or soon to be vacant) for which the employee qualifies, and into which the employee can be reassigned or is willing to accept reassignment; **and,**
 - 1.4 There is no position in a lower job (vacant or soon to be vacant) for which the employee qualifies, and into which the employee can be demoted or is willing to accept demotion; **and,**
 - 1.5 Additional leave options have been considered and are either determined not to be available, or cannot be approved without undue hardship.
2. Classified employees who are absent from work as indicated below can be separated from employment in accordance with the Rules of the State Personnel Board - Rule 12. Separations for these reasons are considered voluntary separations.
 - 2.1 Absent from work for five (5) consecutive work days or equivalent without proper authorization.
 - 2.2 Failure to return to work at the expiration of an approved leave of absence.
 - 2.3 Absent from work for five (5) consecutive work days or equivalent after all sick and annual leave is used.
 3. This policy does not restrict the authority of management to discipline or separate employees based on failure to meet standards of performance or conduct, or failure to follow procedures for reporting and approval of absences.
 4. The OHRMD – Employee Relations Section should be contacted for assistance prior to separating employees as indicated in this policy.

For additional information or assistance, please contact the OHRMD – Employee Relations Section at 404/656-5796.

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ATTACHMENT:

Attachment #1 - *DHR PROCEDURE FOR HANDLING MEDICAL INFORMATION IN ACCORDANCE WITH PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT*
